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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/723,889

11/26/2003

Nicholas Longo

1151

7590

07/07/2006

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EXAMINER

FLETCHER, MARLON T

ART UNIT

PAPER NUMBER

2837

DATE MAILED: 07/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,889

Applicant(s)

LONGO, NICHOLAS

Examiner

Marlon T. Fletcher

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preambles recite an interface. However the claims are indefinite because the body of the claims never recite the end result of the interface or using the interface.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claims 1-30 rejected under 35 U.S.C. 101 because the claims do not provide a tangible, useful, utility. The claims recite an interface and a method for providing an interface. There is no end result of obtaining an interface.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-30 are rejected under 35 U.S.C. 102(b) as being anticipate by Longo (6066794).

Longo discloses an interactive performance interface for use with an audio system that generates at least one audio signal, said interactive performance interface including at least one performance mode comprising: interaction rate data generation functions for generating at least first and second interaction rate data responsive to user operation of first and second user-input control devices (30, 52, '52, 54, and '54), and at least one interactive control envelope means for synthesizing an interaction rate signal including attack data and release data responsive to said first and second interaction rate data (figure 6), said interactive control envelope means including at least one attack latch for synthesizing said attack data and release data, according to at least one specification selected from the group consisting of, (i) said attack latch is activated responsive to a second state of said interaction rate data, preceded in time by a first state of said interaction rate data, (ii) said attack latch is deactivated responsive to a second state of said interaction rate data, preceded in time by a first state of said interaction rate data, (iii) said attack latch is activated responsive to a state of said first interaction rate data, and subsequently deactivated responsive to a state of said second interaction rate data, (iv) said attack latch is activated responsive to a combination of a first state of said first interaction rate data and a first state of said second interaction rate data, and subsequently deactivated responsive to a combination of a second state of said first interaction rate data, and a second state of said second interaction rate data

(figure 2 – user input, and claim 51), whereby said audio signal at least initiates a phrase responsive to said interaction rate signal via tone generator (60). Longo discloses the interactive performance interface, wherein said first and second interaction rate event data are selected from the group consisting of (i) logic data representing user operation of a control operator, (ii) selection data representing user selection of notes using a note selection device (iii) first on/last off data, (iv) 2nd note/1st note data, (v) new note/same note data, (vi) first deflected/last released data, and (vii) new operator/same operator data (figures 2 and 16). Longo discloses the interactive performance interface that has at least one characteristic selected from a group consisting of, (i) data input to said generation functions is MIDI compatible data, and (ii) said electronic audio system is MIDI compatible (abstract). Longo discloses the interactive performance interface, wherein said interactive control interface is implemented in at least one device selected from a group consisting of (i) a stand-alone musical instrument, (ii) a stand-alone electro-mechanical device, (iii) a machine-readable storage device for use with a host system, (iv) a magnetic storage medium for use with a host system, and (v) an optical storage medium for use with a host system (column 10, line 57 through column 11, line 11). Longo discloses the interactive performance interface, wherein said interactive control envelope further includes at least one latch selected from the group consisting of (i) a continuation latch for synthesizing continuation data responsive at least in part to said attack data, wherein said phrase is responsive to said continuation data, (ii) a damp latch for synthesizing damping data

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responsive at least in part to said release data wherein said phrase is responsive to said damping data, and (iii) a decay latch for synthesizing decay data responsive at least in part to said attack data, wherein said phrase is responsive to said decay data (column 19, lines 30-40, column 24, lines 45-65, and column 32 line 54 – column 33, line 3). Longo discloses the interactive performance interface, that further includes at least one control rate signal generation means for generating control rate signal data responsive to said interaction rate signal, wherein the rate of change of said control rate signal data is variable responsive to at least one of (i) position value of a note selection, (ii) interval difference of a first and second note selection, (iii) position value of a control operator, and (iv) velocity of a control operator (column 12, line 55 – column 13, line 31).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marlon T. Fletcher whose telephone number is 571-272-2063. The examiner can normally be reached on M-w, F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Martin can be reached on 571-272-2107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MTF
June 23, 2006



MARLON T. FLETCHER
PRIMARY EXAMINER